IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.152 of 2000

Between:

CHANDA PASHA, S/o Siddaiah,
R/o Hyderabad District.

..... PETITIONER

AND

1 The Industrial Tribunal-cum-Labour Court,

Rep. by its Presiding Officer
Hyderabad.
2 The Depot Manager, A.P.S.R.T.C.,
Falkunama Depot, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order, or Direction, more particularly one in nature of Writ of CERTIORARI and after calling for the records from 1st Respondent in respect of I.D.No.90/97 and quash the award dated 16-11-98 and consequently direct the 2nd Respondent to reinstate the petitioner into service with continuity of service, back-wages and all other attendant benefits; and pass such other order or orders may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr. G.RAVI MOHAN

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. V.T.M. PRASAD

The Court made the following :

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.152 of 2000

O R D E R:

This Writ Petition is filed by the workman being aggrieved by the Award dated 16-11-1998 made in I.D.No.90 of 1997 on the file of the Labour Court-I, Hyderabad, wherein the claim petition filed under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') was rejected *in toto* without granting any relief.

It is the case of the petitioner that he was appointed as a Badli Conductor with effect from 7-6-1993 in the respondent-Corporation. He had been discharging his duties to the utmost satisfaction of his superior Officers. While so, when he was conducting the bus on route Charminar to Pahadishareef on 7-3-1996, a check was exercised at stage No.3/4 i.e. Chandrayanagutta and certain cash and ticket irregularities were found. On the basis of the report submitted by the checking officials, a charge sheet was issued to him. Though he submitted an explanation, the same was not accepted and a detailed enquiry was ordered into the matter. The Enquiry Officer, without following the principles of natural justice and without there being any acceptable evidence, held that he is guilty of the charges. Basing on the Enquiry Officer's report, the disciplinary authority – 2nd respondent – passed orders of removal from service on 19-6-1996. Aggrieve by the same, he filed an appeal, but the same was not considered. Therefore, he raised an industrial dispute by filing a claim petition under Section 2-A(2) of the Act and the same was taken on file in I.D.No.90 of 1997 on the file of Labour Court-I, Hyderabad. According to the petitioner, the Award passed by

the Labour Court is arbitrary and illegal. Absolutely, there is no misconduct on his part in conducting the bus on 7-3-1996; therefore, the Award passed by the Labour Court is liable to be set aside and he is entitled for reinstatement with continuity of service and other attendant benefits.

A detailed counter affidavit has been filed on behalf of the 2nd respondent denying the allegations made by the petitioner and further asserting that the past conduct of the petitioner was not clean. He was disengaged on 30-6-1995 for having involved in cash and ticket irregularities. Later on, on his appeal, he was appointed afresh as a casual Conductor and posted at Falaknuma depot. While conducting the bus on 7-3-1996, the petitioner involved in serious cash and ticket irregularities. After conducting a detailed enquiry into the matter, giving opportunity to cross-examine the witnesses and allowing to defend himself fully, the petitioner was removed from service. The Labour Court, therefore, rightly came to the conclusion that the charges were proved and the petitioner is not entitled for any relief. The Award passed by the Labour Court is just and proper and does not call for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the Award passed by the Labour Court.

At the outset, I am of the opinion that the Labour Court has not properly appreciated the facts and circumstances of the case and the situation, which led to the cash and ticket irregularities. It is the case of the petitioner that there were about 102 passengers in the bus and 20 passengers, who were found to be without tickets at the time of check, were all boarded at stage No.3 and the check had taken place at stage No.3/4. In the city buses, the Conductors are allowed to issue tickets within one fare stage distance. In this case, the passengers were not examined. In fact, there is evidence to show that 20 passengers did not take any ticket and they were fined at Rs.50/- each as extra fare. The Labour Court itself has noticed that the contention of the petitioner was that the ticketless passengers were boarded the bus at Engine Bouli, stage No.3, which is only 1/4th kilometer from the place of check. Further, the statements of the passengers were not recorded and there was no evidence against the petitioner, except the evidence of Travelling Ticket Inspectors. In the absence of any statement of the passengers on the spot, the explanation

offered by the petitioner that the passengers boarded the bus at stage No.3 and the check had taken place within 1/4th KM between stage Nos.3 and 4 cannot be said to be incorrect. Simply because the petitioner closed the Tray numbers of all the denominations upto stage Nos.2 and 3, in the absence of the statements of the passengers, it cannot be said that the passengers have boarded at stage No.1 instead of stage No.3. Admittedly, the bus was over-loaded. It was within the city limits and this happened at about 6.00 p.m. i.e. during the peak traffic hours. Even as per Ex.M3 – Travelling Ticket Inspectors' check sheet - there were 70 passengers in the bus and out of them 38 were having tickets, 12 pass holders and 20 were without tickets. May be, there were not 102 passengers. Even 70 passengers cannot be said to be a small number. In fact, it is difficult to issue tickets before reaching the next fare stage to all of them.

This is not a case where the petitioner had collected the amount and not issued the tickets. This is only a case where the petitioner had failed to collect the amount and failed to issue tickets. Nothing prevented the checking officials in recording the statements of the passengers stating that they have boarded the bus at stage No.1. Usually, whenever a check takes place, recording of the statements of the passengers is a must and that is the edifice for initiating the disciplinary action. But, in this case, no such statement was recorded by the Travelling Ticket Inspectors and there is no reason forthcoming for the same. Therefore, the version of the petitioner that the passengers have boarded at stage No.3 and they are bound for stage No.4 and within a quarter kilometer, the check had taken place, in all probability, is a correct statement. May be, there is some irregularity on the part of the petitioner. But, that itself does not mean that for such a trivial misconduct on the part of the petitioner, he could have been removed from service of the respondent-Corporation. Assuming that the past conduct of the petitioner was also not good, the present misconduct attributed does not inspire the confidence of the Court to confirm the Award made by the Labour Court.

In the result, the Writ Petition is allowed and the impugned award passed by the Labour Court is set aside. The respondent-management is directed to reinstate the petitioner into service as a fresh Conductor. The petitioner is not entitled for any other attendant benefit or back wages. No order as to costs.

23-8-2005

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